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Part 2: Prop 2 1/2's Levy Limit Components and a Statistical Review over the Last Decade - Has Your Levy Limit "Hit the Ceiling?"

**Brenda Cameron - Bureau of Local Assessment Deputy Chief,
Steve Sullivan - Bureau of Local Assessment Boston Office
Certification Supervisor and Tony Rassias - BOA Deputy Director**

This is the second of a three part series reviewing Prop 2 1/2's levy limitation components along with statistics from FY2004 to FY2013. Part Two will focus on levy ceilings, how override capacity has diminished in recent fiscal years, what it means to "hit the ceiling," and why assessors and budget officers in certain cities and towns should be concerned. It will also include suggestions from the Bureau of Local Assessment and Bureau of Accounts and a continuation of an FY2014 levy limit calculation. The levy limit calculation shown in all Parts is organized on the basis of the levy limit worksheet found on [Gateway's levy limit report page](#).

The levy limitation began as a two-tiered calculation: (1) a 2.5% factor increase or 15% or lesser percentage decrease from the FY1981 tax levy and (2) a 2.5% or lower percentage factor as determined by FY1979's property tax multiplied by the full and fair cash valuation of the city or town. Where a full and fair cash value was not available, an equalized value was used. Many communities found this an added incentive to assess at full and fair cash value. - [A Sketch of the History of the Massachusetts Bureau of Accounts and Related Matters in the Growth and Development of Municipal Finance by Anthony A. Rassias](#)

In November of 1980, the people of Massachusetts passed by ballot vote Proposition 2 1/2 (Chapter 580 of 1980), a law that, among other

things, placed constraints on city and town property tax levies beginning in FY1982.

Since that time, these levies have been limited by the law's provisions and approved by the Bureau of Accounts as part of the annual tax rate certification process. Even 33 years since its passage, Prop 2 1/2 initiates considerable discussion and debate.

Levy Ceilings

The property tax levy is the revenue a community raises through real and personal property taxes each fiscal year when it sets its tax rate. The law established three types of annual levy limits: a levy limit, a levy ceiling and a maximum allowable levy. The levy limit is incremental and allows a permanent but controlled annual increase to the tax levy. The levy ceiling caps the levy limit for that fiscal year at 2.5 percent of the current fiscal year's total assessed full and fair cash value for real and personal property. The levy limit may be increased or decreased by locally adopted referenda, but may not exceed the levy ceiling. The levy ceiling may be increased temporarily by certain locally adopted exclusions. The maximum allowable levy is the maximum amount of property tax a community may raise in a fiscal year.

When Prop 2 1/2 was first implemented, many levy ceilings were calculated at 2.5 percent of updated biennial equalized values. Cities and towns that had not yet assessed their property at full and fair value found this an added incentive to do so because, at that time, the higher the levy ceiling, the less the required levy reduction and the more chance for a levy limit increase from the prior fiscal year.

The difference between the levy limit and levy ceiling is called override capacity. When override capacity exists, a city or town may override the levy limit by local ballot and maximize it up to 2.5 percent of total assessed full and fair cash value. When override capacity has been depleted, there is no credit for an override, the levy limit becomes the levy ceiling, and the levy limit is said to have "hit the ceiling."

The levy ceiling is an annual calculation reflecting market value fluctuation of real and personal property and the addition and removal of property from the tax roll.

As the below chart shows, levy ceilings increased from \$18.3 billion in FY2004 to \$24.8 billion in FY2008. Feeling the effects of the depressed Massachusetts real estate market, these ceilings began to slide beginning in FY2009. Levy ceilings have fallen almost 8.8 percent from \$24.8 billion in FY2008 to \$22.6 billion in FY2013. For the decade, however, ceilings increased by 23.4 percent.

Chart 1 - Levy Ceilings



Source: DLS Data Bank

Let's assume a total taxable assessed value of \$421,200,000.

Table 1(below) reviews the percent change to levy ceilings by category. Note that from FY2004 to FY2008, levy ceilings increased as a percentage more so in communities with less than a \$10 million ceiling while from FY2008 to FY2013, total levy ceilings in dollars decreased as a percentage more so in communities with a ceiling between \$10 million and less than \$50 million.

Table 1 - Percent Change to Levy Ceilings by Category

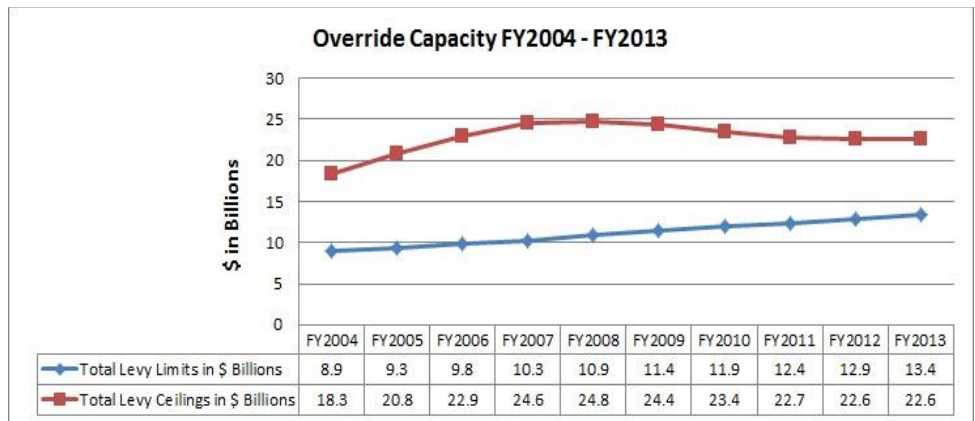
% Changes to Levy Ceilings		
Category	FY2004 to FY2008	FY2008 to FY2013
< \$10 million	56.3%	-4.0%
\$10 million to < \$50 million	41.3%	-11.6%
\$50 million to < \$100 million	36.7%	-10.3%
>\$100 million	31.2%	-7.7%

Source: DLS Data Bank

Override Capacity: FY2004 - FY2013

Chart 2 (below) shows that the combination of rising levy limits and falling levy ceilings from FY2004 to FY2013 has compressed override capacity to its narrowest point in the decade in FY2013.

Chart 2 - Override Capacity



Source: DLS Data Bank

"Hitting the Ceiling"

Although Chart 2 shows in total that there is sufficient override capacity to sustain cities and towns for the time being, this is not necessarily the case for individual cities and towns. For some, the levy limit has risen faster than the levy ceiling to the point where it has collided with the ceiling. In other cases, the levy ceiling has fallen either due to market conditions or to an extraordinary circumstance, to the point where it has collided with a rising levy limit. In any case, the levy limit is said to have "hit the ceiling."

When collisions occur, the city or town potentially loses a portion of the Base (prior year levy limit) in the calculation, but is more likely to lose a portion or the entire amount of:

- the annual 2.5 percent increase;
- amended prior fiscal year new growth;
- current fiscal year new growth; and/or
- any current fiscal year override (not including exclusions - to be discussed more in Part Three).

Continued loss of taxable assessed value exacerbates the matter and there is no process to recoup these losses. Despite "hitting the ceiling," a city or town may still be subject to a new growth adjustment or override vote as described in Part 1 of this series.

Table 2 (below) shows the number of cities and towns that have "hit the ceiling" over the last decade and the number of municipalities approaching their levy ceiling, where the levy limit is greater than 90 percent of the ceiling.

Table 2 - Cities and towns that have "hit the ceiling" or where the ceiling is approaching

Fiscal Year	"Hit the Ceiling"	Ceiling is Approaching
2004	1	4
2005	1	0
2006	0	1
2007	0	1
2008	0	1
2009	0	1
2010	0	2
2011	2	2
2012	1	5
2013	4	5

Source: DLS Data Bank

Override for Cities and Towns that have "hit the ceiling"

In a second form of override which has not been voted since the 1980s, the tax levy is over the levy ceiling and a levy reduction equal to the lesser of (a) 15 percent of the prior fiscal year's tax levy or (b) the amount by which the prior fiscal year's tax levy exceeds the current fiscal year's levy ceiling is required.

This situation could occur in a community that taxed at its levy ceiling in one year and experiences a large assessed value reduction in the next. By two-thirds vote, the board of selectmen or town or city council (with the mayor's approval if required by law) may place a question or questions on a special election ballot to reduce the amount of the required reduction. This override:

- has specific wording written in [MGL c. 59, s. 21C\(e\)](#) which includes a dollar amount and applicable fiscal year;
- may include two questions on the same ballot with only one specifying an amount greater than one-half the required reduction. If both questions are approved, the one requiring a two-thirds vote prevails;
- requires a majority vote for approval if the amount is less than one-half the required reduction and a two-thirds vote if the amount is greater than one-half.

Should Assessors and Budget Officers be concerned?

For most cities and towns, the levy limit, not the levy ceiling, is the immediate concern. But for others, the levy ceiling is their concern and without an immediate and positive change in the real estate market, a limit collision already has occurred or may occur. For FY14, there are indications that the number of cities and towns "hitting the ceiling" and the number for those where the ceiling is approaching will both likely increase.

Assessors and budget officers should review their city or town's levy

ceiling situation for FY2014 and FY2015. The good news is that apart from the partial or total incremental loss, a limit collision may not be cause for budget panic if the tax levy is set comfortably below the ceiling and/or if sufficient locally approved exclusions to the ceiling (the next focus of this series) apply. For some FY2014 communities, this is the case. For others, it is not.

Our Suggestions

To cities and towns that levy a property tax to their levy ceiling ("tax to the max"), have no exclusions and a limit collision has occurred in FY2014 or may occur in FY2015, the Bureau of Local Assessment and Bureau of Accounts offer some suggestions.

Bureau of Local Assessment:

1. **Communicate.** Assessors must make budget officers aware of a possible collision as soon as possible to prevent further complications such as a delay in setting the tax rate;
2. **Stay vigilant.** Be sure to capture the value of new construction within your borders and maintain a data collection program to ensure that the most current/accurate data is applied in the valuation process;
3. **Assess properly.** All taxable real and personal property must be assessed at 100 percent of full and fair value on an annual basis and keep in mind certain properties such as power generating facilities, and others granted TIFs and DIFs that are allowed special value arrangements.

Bureau of Accounts:

1. **Communicate.** Budget officers must become aware of the assessors' value determination as soon as possible to properly prepare the budget and consider alternative revenue sources if need be;
2. **Plan ahead.** Because the property tax is the largest local government revenue source, a good contingency plan discussed with the city or town's financial management team is necessary;
3. **Build reserves.** "Rainy day" funds such as free cash and stabilization for the General Fund or retained earnings for the enterprise fund should be supplemented and appropriated to support spending if needed.

Levy Limit Calculation for FY2014: Continued from Part 1

Levy Limit Calculation for FY2014: Continued from Part 1

Step 1: The FY2013 Base (Prior Year Levy Limit)		\$10,000,000
Step 2: Add Amended Prior Fiscal Year New Growth	+	\$ 3,500
Step 3: Subtotal Steps 1 and 2	=	\$10,003,500
Step 4: Multiply subtotal by 2.5 percent	x then +	\$ 250,088
Step 5: Add FY2014 New Growth	+	\$ 336,000
Step 6: Subtract FY2014 New Growth Adjustment	-	\$ 157,594
Step 7: Add FY2014 Override	+	\$ 100,000
Step 8: Subtract FY2014 Underide	-	\$ 20,000
Step 9: Subtotal Steps 3 through 8	=	\$10,511,994
Step 10: Compare to current fiscal year's levy ceiling @ 2.5 percent x \$421,200,000	=	\$10,530,000
Step 10 now reveals that the community has a levy limit which is under the levy ceiling by \$18,006. This is the community's FY2014 override capacity. If the calculation stopped here, the following fiscal year's levy limit Base would begin with \$10,511,994. (Had Step 10 been calculated @2.5 percent of \$420,000,000, or \$10,500,000, the levy limit would have "hit the ceiling," a portion of the calculation would have been lost, and the following fiscal year's levy limit Base would begin with \$10,500,000.)		
Step 11: Calculate the Maximum Allowable Levy		\$10,511,994

Conclusion

For most cities and towns, "hitting the ceiling" may never apply. But for others, the matter is serious enough to affect public services. As it was once said, "to be forewarned is to be forearmed." For cities and towns where hitting the ceiling could occur, consider yourselves forewarned and please contact either the Bureau of Local Assessment or Bureau of Accounts if you need further assistance.

The final part of this series will focus on the components of the maximum allowable levy and will complete the FY2014 maximum allowable levy calculation. For further information, see the Division of Local Services Publications: [Levy Limits: A Primer on Proposition 2 1/2](#) and [Proposition 2 1/2 Ballot Questions - Requirements and Procedures](#). Part One of this series is available in the [June 19th, 2014 edition of City & Town](#).

Ask DLS

This Ask DLS features a question from a local finance committee member seeking to "provide a better sense of transparency with the town's resources." Let us know if you have areas of interest you'd like to see covered or send a question to cityandtown@dor.state.ma.us. We would like to hear from you.

"I have recently been selected to be the chair of my town's Finance Committee. One of my goals is to provide a better sense of transparency with the town's resources. While all meetings are public, they are not attended by citizens in general for whatever reason. I would like to begin the new fiscal year with an open checkbook covering the reserve fund activity as well as enterprise funds (Recreation and Pay-as-You-Throw). We are implementing a pay as you throw system beginning July 1 and I believe the public should know exactly how this project is progressing. Ideally, I would post this information on our website, but want to ensure I am not violating any compliance or procedural issues. Any advice or guidance you could provide would be greatly appreciated."

By "open checkbook" we assume the goal is to display the content of town payment records. Disclosure of that information is not barred by state municipal finance laws or DOR regulatory policies, but cities and towns should consult with municipal counsel and other officials, as there are may be other laws that apply to disclosure of particular data items in those records, such as the identify theft statute, [MGL c. 93H](#), or important public policy issues to consider. See, for example, the description of the data withheld from the [Massachusetts Open Checkbook](#):

The Commonwealth is committed to maintaining the highest levels of data security and privacy. Therefore, not all state payments will be displayed. Some payment information will be withheld because they may contain protected information, i.e. personal information of victims of domestic violence. In addition protected information will not be shown, such as Taxpayer Identification Numbers or street addresses. Vendor city, town and state fields will be displayed, but street address will not. Vendor codes will not be displayed since they might be used to defraud the state. The Commonwealth is taking steps to ensure that proper attention is paid to restricting access, use and disbursement of personal data and information under M.G.L. c. 93H and c. 66A and Executive Order 504.

Enjoy Retirement, Deb Tetrault!
Division of Local Services



Last week, Division of Local Services staffer Deb Tetrault had her last day in our Springfield office. We want to thank Deb for her 15 years of service and wish her all the best in retirement. Congratulations, Deb!

Zack Blake Named Director of Technical Assistance

Rick Kingsley - Municipal Data Management and Technical Assistance Bureau Chief

I am pleased to announce that Zack Blake has been named the new Director of Technical Assistance for the Division of Local Services, replacing the recently retired Joe Markarian. The Division's [Technical Assistance Section](#) provides consultant services at no cost to cities and towns on municipal operations, government structure and financial management.

Zack, who has worked in Technical Assistance for seven years, is a graduate of the Miami University in Ohio and holds a Master's Degree in Public Administration from Suffolk University.

He is a member of the *City & Town* Editorial Board and also serves as chairman of the Division's Stakeholder Satisfaction Committee. He previously served on the City of Newton's Community Preservation Committee and its Historical Commission.

"I look forward to continuing our close working partnership with cities and towns and to finding new and innovative solutions to their complex challenges," said Blake.

CPA: Past, Present and Future

Zack Blake - Director of Technical Assistance

Nearly two years ago, Governor Patrick signed into law a number of

changes to the Community Preservation Act (CPA). These amendments expanded the acceptable uses for CPA funds and offered communities more flexibility in how these funds are raised. Reflecting back, we thought we would reintroduce readers to CPA by briefly highlighting some of those changes and ways in which communities are taking advantage of them. We also delve into recent collection trends at the state level that impact the distribution of matching funds.

Enacted in 2000 as [MGL c. 44B](#), the CPA enables adopting cities and towns to raise additional revenue beyond the tax levy for community preservation purposes that include providing community affordable housing, protecting open space, preserving historic resources and developing outdoor recreational opportunities.

Under the CPA an adopting city or town elects to implement up to a three percent surcharge on its real estate tax bills. The revenue is deposited into a special revenue fund along with an annual distribution of matching funds from a state trust derived from a surcharge on Registry of Deed recordings. At a minimum, the city or town must spend or reserve ten percent of its annual CPA revenue towards each of the community preservation purposes of open space, historic resources and community housing. Revenue can also be appropriated to a discretionary budgeted reserve, providing the flexibility to fund any CPA purpose until the end of the fiscal year.

Once the CPA is adopted, the community must establish a Community Preservation Committee (CPC). Whether elected or appointed, CPC members are selected from the community's conservation, historical, planning, park and housing authority boards. The city or town can also choose up to four additional at-large members for a maximum total of nine. Overall, the committee's role in administering the program locally involves studying the community's needs, possibilities and resources as they relate to community preservation; accepting and reviewing project proposals; and making recommendations to the legislative body for spending, citing the reasoning behind each choice. Both an affirmative recommendation of the CPC and a legislative body appropriation vote are required to expend CPA funds on a project.

Throughout the last 14 years, CPA has been amended eight times. Early changes largely clarified various aspects of the law or added minor modifications. More recently, however, [Chapter 139 of the Acts of 2012, Sections 69-83](#), contained several significant changes, including an expansion of the allowable CPA spending purposes and the creation of a new option for local CPA funding.

Before the 2012 amendment, communities could use CPA funding to rehabilitate recreational lands only if the recreational land was acquired or created with CPA funding. Today, however, because of the 2012 amendment, communities have the ability to appropriate funds towards previously prohibited recreational-related projects. In expanding the program, these new CPA funding purposes allow cities and towns to

rehab existing outdoor recreational spaces and invest in capital improvements to make them more functional for the intended recreational use, including the replacement of playground equipment. Changes in the law also now credit spending on recreational projects towards meeting the annual ten percent open space spending (or reservation) requirements.

In exploring ways in which these changes are expanding CPA spending, we found funds being appropriated to purchase ADA accessible playground equipment, construct a new skate park, resurface outdoor basketball courts, install lighting for a multipurpose athletic field, rebuild a dock landing and create community gardens.

The second significant change in the law offers communities an alternative funding method to supplement the surcharge on real estate tax bills. A community may now adopt CPA, pursuant to [MGL c. 44B, s. 3\(b1/2\)](#), which allows it to approve at least a one percent surcharge on the levy and to appropriate additional revenues up to two percent of the levy from other general fund sources, such as meal and room occupancy taxes. The total surcharge and additional revenue cannot exceed three percent. To date, Somerville and Salem have adopted the CPA through Section 3(b1/2), sometimes referred to as the "blended" method. Quincy and Littleton recently amended its original CPA acceptance by adopting Section 3(b1/2) so that it can appropriate other local revenue into the Community Preservation Fund. Communities that have already adopted CPA, but wish to appropriate other general fund revenues to CPA as described above, must amend their CPA acceptance under [MGL c. 44B, s. 16\(a\)](#) and seek voter approval at a town-wide referendum.

Lastly, a new provision in the law added an optional surcharge exemption for commercial and industrial properties on the first \$100k of property value to mirror the existing exclusion for residential property. To add this exemption, an existing CPA community must follow the CPA amendment process, [MGL c. 44B, s. 16\(a\)](#). The law also now requires that preservation restrictions be recorded as separate instruments regarding property acquired with CPA funds to better protect CPA long-term interests, [MGL c. 44B, s. 12](#).

Future Outlook

As of May 2014, 155 communities have accepted CPA with over a billion dollars appropriated to more than 6,000 projects. It is also worth noting that CPA funds have allowed communities to leverage funds from other outside sources that might not otherwise have been available.

This year also marks a point where a larger number of communities are scheduled to vote on whether to adopt CPA than in the past. Several communities are even seeking to increase their levy surcharge, with at least one looking to reduce it. This renewed interest may be the result

of the \$25 million infusion of surplus state revenue from the Legislature last year along with the potential for more this year. Another motive could be the recent changes in the law expanding the recreational-related purposes cities and towns can fund.

Ria Knapp, Communications Director for the Community Preservation Coalition, says the combination of these two factors sparked the interest of communities that otherwise might not have considered CPA in the past. She adds that "many communities are embracing the new provision in the CPA legislation allowing the rehabilitation of existing parks, playgrounds, and athletic fields," with "over \$40 million in such projects approved recently, and many more proposals being voted on during this spring's municipal budget process."

Despite amendments to the law and renewed interest, local advocates are concerned that this year's state match could be significantly less. Current Registry of Deed collection trends reported by the Department of Revenue are lagging collections of the previous three years. Concern in the real estate market over high home prices and low inventory levels could also continue to hamper buying over the coming months, creating further uncertainty. The rising number of new communities participating in the program also further dilutes the initial distribution of state matching funds.

CPA Trust Fund Collections as of May 2014

	FY2011	FY2012	FY2013	FY2014	Diff	% Change
July	\$0	\$0	\$0	\$0	\$0	
August	2,117,310	1,876,370	2,525,330	2,695,070	169,740	6.72
September	2,363,720	2,088,110	2,851,900	2,532,780	(319,120)	-11.19
October	2,478,650	2,045,050	2,397,360	2,143,720	(253,640)	-10.58
November	2,442,410	2,187,220	2,736,380	2,286,180	(450,200)	-16.45
December	2,530,320	2,364,050	2,557,910	1,836,140	(721,770)	-28.22
January	2,756,480	2,511,710	2,768,870	1,875,470	(893,400)	-32.27
February	2,303,030	2,173,650	2,115,660	1,685,400	(430,260)	-20.34
March	1,915,090	2,206,500	2,747,930	1,442,850	(1,305,080)	-47.49
April	2,049,500	2,420,960	2,401,320	1,619,520	(781,800)	-32.56
May	1,840,260	2,325,490	2,420,060	1,735,060	(685,000)	-28.31
June	3,840,930	5,164,040	5,075,310			
Total:	\$26,637,700	\$27,363,150	\$30,598,030	\$19,852,190	(\$5,670,530)	

In FY2014, 148 participating communities were eligible for a state match that totaled \$54.9 million. Funded through Registry of Deed revenue collections and a one-time infusion of \$25 million in state budget surplus, these combined sources allowed for a first round state match of 52.2 percent. Without the additional \$25 million appropriation added to the trust fund, cities and towns in the program would have received a first round match of less than 31 percent based on total

state funding of \$32.7 million.

Although the recent drop in collections at the state level is cause for concern, CPA advocates are applauding the Legislature's inclusion and the Governor's signing of the FY2015 budget, which transfers \$25 million in state budget surplus to the CPA Trust Fund. Because this additional funding is coming from the state budget surplus, the amount will not be known until the state closes its books on October 31st.

July Municipal Calendar

July 1	Collector	Mail Annual Preliminary Tax Bills For communities issuing annual preliminary tax bills, the preliminary quarterly or semi-annual bills should be mailed by this date.
July 15	Accountant	Certification Date for Free Cash: Anytime after Books are Closed Two weeks after the close of a fiscal year, all accounts are closed out and the resulting balance sheet and supplemental documentation submitted to DOR. Free cash is certified any time after this date.
July 15	Accountant	Report Community Preservation Fund Balance: Anytime after Books are Closed After the close of a fiscal year, the fund balance is submitted to DOR (Form CP-2) and notice given to the Community Preservation Committee and other financial officers. The fund balance may be appropriated anytime after that report.
July 15	School Business Officials	Certification Date for Excess and Deficiency (E&D) Fund

		Two weeks after the close of a fiscal year, all accounts are closed and the resulting balance sheet (a pre-closing trial balance or audited financial statements will not be accepted unless requested by the Director of Accounts) and supplemental documentation are submitted to DOR. E&D Fund is certified any time after this date.
July 15	Assessors	Deadline for Appealing Commissioner's Pipeline Valuations to ATB
July 20	DOR/BLA	Notification of Changes in Proposed EQVs (even numbered years only)
July 20	DOR/BLA	Notification of Changes in Proposed SOL Valuations (every 4th year after 2005)
Final Day of Each Month	State Treasurer	Notification of monthly local aid distribution. Click www.mass.gov/treasury/cash-management to view distribution breakdown.

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